

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SHENG-WEN CHENG,

Plaintiff,

-against-

UNITED STATES OF AMERICA,

Defendant.

1:24-CV-5579 (ER)

ORDER OF SERVICE

EDGARDO RAMOS, United States District Judge:

Plaintiff Sheng-Wen Cheng, who is currently incarcerated as a federal prisoner in the Federal Medical Center in Rochester, Minnesota, brings this action *pro se*, asserting claims under the Federal Tort Claims Act, and seeking damages and declaratory relief. He sues the United States of America. By order dated July 24, 2024, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.<sup>1</sup> The Court directs service on the United States of America.

**DISCUSSION**

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on assistance from the Court and the United States Marshals Service ("USMS") to effect service.<sup>2</sup> *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The

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<sup>1</sup> Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

<sup>2</sup> Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any summonses be issued. The Court therefore extends the time to serve until 90 days after the date any summonses issue.

officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the USMS to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on the United States of America through the USMS, the Clerk of Court is instructed to fill out a USMS Receipt and Return form (“USM-285 form”) for the United States of America. The Clerk of Court is further instructed to issue a summons for the United States of America and deliver to the USMS all the paperwork necessary for the USMS to effect service on the United States of America.

If the complaint is not served within 90 days after the date the summons is issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

### **CONCLUSION**

The Court directs the Clerk of Court to mail an information package to Plaintiff.

The Court also directs service on the United States of America.

The Court further directs the Clerk of Court to: (1) issue a summons for the United States of America; (2) complete a USM-285 form with the service addresses for the United States of America; (3) mark the box on the USM-285 form labeled “Check for service on U.S.A.”; and

(4) deliver all documents necessary to effect service of the summons and the complaint on the United States of America to the USMS.

SO ORDERED.

Dated: August 28, 2024  
New York, New York

A handwritten signature in blue ink, appearing to read 'Edgardo Ramos', is positioned above a horizontal line.

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EDGARDO RAMOS  
United States District Judge

**SERVICE ADDRESSES**

1. Attorney General of the United States  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530
2. United States Attorney  
Southern District of New York  
Civil Division  
86 Chambers Street, 3rd Floor  
New York, New York 10007